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April 2, 2021

BY ECF

Honorable Mary Kay Vyskocil
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Sean Fincher v. City of New York, et al.
19-CV-6206 (MKV)

Your Honor:

I am an Assistant Corporation Counsel in the Office of James E. Johnson, Corporation Counsel of the City of New York, and the attorney for defendants in the above-referenced action. Defendants write, with plaintiff's consent, to request that the Court seal plaintiff's exhibits filed at ECF No. 85-6, pursuant to New York Social Services Law ("SSL") § 136.

On February 3, 2021, plaintiff filed his opposition to defendants' motion for summary judgment, which included a declaration that described thirty-three (33) exhibits that plaintiff purportedly attached to his opposition. (ECF No. 80) The actual exhibits to plaintiff's opposition were not entered on the docket until March 9, 2021. (ECF Nos. 85 to 85-8) Upon review of the exhibits that plaintiff submitted to the Court, it appears that plaintiff's Exhibit 22, which consists of the Sentry Security Incident Report, contains the name of another shelter resident that is confidential under NY SSL § 136.¹ Because the Sentry Security Incident Report is included in duplicate within the docket entry 85-6, the individual's name appears on ECF-stamped pages 44 and 52 of the exhibits filed at ECF No. 85-6.

¹ NY SSL § 136(1) provides, in relevant part: "The names or addresses of persons applying for or receiving public assistance and care shall not be included in any published report . . . nor shall such names and addresses and the amount received by or expended for such persons be disclosed . . ."

This document was inadvertently produced to plaintiff in discovery without the relevant redaction of the shelter resident's name. When defendants realized that this name should have been redacted from the production to plaintiff, defendants promptly notified plaintiff that this information should not have been disclosed and produced a properly redacted version of the document to plaintiff. Defendants also requested that plaintiff "[p]lease immediately destroy and disregard the previously produced version of D000022-D000024, and use only the newer redacted version of the document moving forward in the litigation. This includes both (1) shredding any paper copies of the old version, and (2) deleting all electronic PDF copies of the old version." Plaintiff acknowledged defendants' request and agreed to refer to that individual simply as "male resident," or "M.R." (See Plaintiff's Opposition at 6 n.2) Plaintiff has informed defendants that his submission of the unredacted version of this document was an unintentional oversight.

Accordingly, defendants respectfully request that the Court seal plaintiff's exhibits at ECF No. 85-6. Defendants are concurrently filing a copy of the exhibits included in ECF No. 85-6 with the necessary redactions made to M.R.'s full name on the Sentry Security Incident Report. As a courtesy to plaintiff, the public filing also redacts the month and day of plaintiff's date of birth on plaintiff's Exhibit 23 (DHS Incident Report), pursuant to Fed. R. Civ. P. 5.2.

Defendants thank the Court for its consideration herein.

Respectfully submitted,

Evan J. Gottstein /s/
Evan J. Gottstein
Assistant Corporation Counsel
Special Federal Litigation Division

cc: **Via ECF and E-Mail**
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GRANTED. The Clerk of the Court is directed to seal the document filed at ECF No. 85-6. SO ORDERED.

Date: 9/29/2021
New York, New York

Mary Kay Vyskocil
Mary Kay Vyskocil
United States District Judge